

# **EXHIBIT 1**



## United States Department of Justice

### United States Attorney's Office Central District of California

David Kowal  
Phone: (213) 894-5136  
E-mail: [david.kowal@usdoj.gov](mailto:david.kowal@usdoj.gov)

1300 United States Courthouse  
312 North Spring Street  
Los Angeles, California 90012

October 7, 2022

#### **VIA INTEROFFICE MAIL**

Michael Driscoll  
Deputy Federal Public Defender  
321 East 2nd St.  
Los Angeles, CA 90012

Re: United States v. Pena, et al.,  
CR No. 22-366-GW

Dear Mr. Driscoll:

Pursuant to your request for discovery, the Protective Order in this matter, and the Agreement re: Transcript drafts executed by you last week, enclosed please find two flash drives labeled "Disc 1 - 10.07.22 - Unprotected Discovery," and "Disc 2- 10.07.22 - Protective Order Discovery." Disc 1 contains discovery in Bates ranges 0001-3520 that is not government by the protective order in this case. Disc 2 contains material subject to the protective order and generally covers materials with Bates ranges 13-99. Gaps in the bates ranges in either disc are likely either materials on the other disc or produced only to your client's co-defendant. Again, the index provides further information. The password for both discs is **WNPena2022!**

As referenced at the hearing this last Thursday, the government is currently working on a more organized version of this materials with fewer subfolders and a more precise indexing system. I am producing this version now at your request, and the Court's order at the hearing.

The government will make available for your inspection any item of evidence referred to above, as well as any other evidence seized from your client and/or which the government intends to offer in its case-in-chief. Please contact me to arrange a mutually convenient time for your inspection of such items.

The government will produce to you any additional Jencks material—including any relevant grand jury transcripts, assuming a Rule 6(e) order has been issued—one week before trial if you agree to the production of reciprocal Jencks material at that time or affirmatively represent that you have no Jencks material to produce. Please inform me whether such an arrangement is acceptable to you.

The enclosed materials and any future discovery provided to you that may exceed the scope of discovery mandated by the Federal Rules of Criminal Procedure, federal statute, or relevant case law are provided voluntarily and solely as a matter of discretion. By producing such materials to

Michael Driscoll, DFPD  
RE: US v. Pena, 22-366-GW, Discovery Ltr.  
October 7, 2022  
Page 2

you, the government does not waive its right to object to any future discovery requests beyond the ambit of its legal obligations.

With this letter the government requests all reciprocal discovery to which it is entitled under Rules 16(b) and 26.2 of the Federal Rules of Criminal Procedure. The government also requests notice of any intention of your client to rely on an entrapment defense, or a defense involving mental condition or duress, and/or an alibi defense. Pursuant to Federal Rule of Criminal Procedure 12.1, the dates, times, and places of the charged offenses are detailed within the documents included within the discovery. Please contact me immediately if you believe that this notice is insufficient.

Finally, please be advised that if your client wishes to apply for the Conviction and Sentence Alternatives (“CASA”) program, you must give notice of your intent to apply within sixty (60) days of the date of arraignment. Failure to give notice of your intent to apply for CASA within this time period may result in the United States Attorney’s Office exercising its objection to your client’s participation in the CASA program.

Please let me know if you have any questions, or would like to further discuss any of the matters raised above.

Very truly yours,

/s/

DAVID KOWAL  
Assistant United States Attorney

Enclosures:

- \* Discovery Discs 1 & 2; copy of front and back below
- \* Discovery index for Discs 1 & 2